

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ROBERT EMMA, Custodian, IRA, DTD
7/10/97,

Plaintiff,

vs.

RS INVESTMENT MANAGEMENT, L.P.;
PFPC DISTRIBUTORS, INC.; G. RANDALL
HECHT; LEONARD B. AUERBACH;
JEROME S. CONTRO; JOHN W. GLYNN,
JR.; and MICHAEL McCAFFERY,

Defendants, and

RS EMERGING GROWTH FUND,

Nominal Defendant.

Case No. 04-cv-12106-NMG

**MOTION TO TRANSFER VENUE BY DEFENDANTS RS INVESTMENT
MANAGEMENT, L.P.; G. RANDALL HECHT; LEONARD B. AUERBACH; JEROME
S. CONTRO; JOHN W. GLYNN, JR.; and MICHAEL McCAFFERY**

Pursuant to 28 U.S.C. Section 1404(a), for the convenience of the parties and witnesses and in the interests of justice, defendants RS Investment Management, L.P. (“RS Investments”), G. Randall Hecht, Leonard B. Auerbach, Jerome S. Contro, John W. Glynn, Jr., and Michael McCaffery (collectively, the “RS Defendants”), hereby move for an order transferring venue to the United States District Court for the Northern District of California. In support of this Motion, the RS Defendants submit a Memorandum of Law as well as a Declaration by Richard Gallagher. Co-defendant PFPC Distributors, Inc. neither joins nor opposes this Motion.

LOCAL RULE 7.1(A)(2) CERTIFICATION

In accordance with Local Rule 7.1(a)(2), attorneys for the RS Defendants certify that they have conferred with plaintiff's counsel prior to filing in a good faith effort to resolve the issue, and informed plaintiff's counsel that the RS Defendants intended to file this Motion to Transfer Venue. Plaintiff's counsel indicated that the plaintiff likely would not assent, and indeed is likely to oppose this Motion.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), the RS Defendants request that this Court hold a hearing on this Motion to Transfer Venue. The RS Defendants believe oral argument will materially assist this Court in deciding this Motion.

WHEREFORE, the RS Defendants respectfully request that the Court grant their Motion to Transfer Venue.

Dated: February 16, 2005

Respectfully submitted,

/s/ James E. Burns, Jr.

James E. Burns, Jr., *pro hac vice*

Richard Gallagher, *pro hac vice*

Eunice J. Lee, *pro hac vice*

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PFPC Distributors, Inc.*